

BURKITTSVILLE MAYOR AND COUNCIL
ORDINANCE NO. _____

AN ORDINANCE TO ENACT AN ARTICLE XIV, OF THE CODE OF THE TOWN OF BURKITTSVILLE, MARYLAND, FOR THE PURPOSE OF GENERAL REVISIONS RELATED TO THE ESTABLISHMENT OF REGULATIONS FOR PROPERTY IMPROVEMENTS AND MAINTENANCE.

SECTION 1. BE IT ENACTED BY THE MAYOR AND COUNCIL OF THE TOWN OF BURKITTSVILLE THAT ARTICLE XIV, SECTION 1 OF THE CODE OF THE TOWN OF BURKITTSVILLE, MARYLAND, ENTITLED "PRIVATE RESPONSIBILITIES" BE ENACTED AND MADE A PART OF ARTICLE XIV, SECTION 1 OF THE CODE.

SECTION 2. AND BE IT FURTHER ENACTED BY THE MAYOR AND COUNCIL OF THE TOWN OF BURKITTSVILLE, MARYLAND THAT THE PROVISIONS OF THIS SECTION SHALL BECOME EFFECTIVE IMMEDIATELY UPON THEIR PASSAGE AND APPROVAL.

SECTION 1.0
PROPERTY REGULATIONS

Section 1.1 Private Responsibilities

1.10 PROPERTY MAINTENANCE

For the purposes of this section, the following provisions and definitions shall be applicable to all zoning districts within the Town of Burkittsville and, where applicable, further specific provisions for certain zoning districts shall carry.

1.11 Definitions

COMPOST PILE. A confined area on a residential property, the nature of which is primarily used for the staging of various decayed or decaying organic substances such as decomposed vegetation, leaves, grass clippings, plant remains, coffee grounds, vegetable skins, certain fruits, starches, certain dairy products, charcoal, non-toxic or non-hazardous ash and other materials. Such a confined area shall be in the form of either an kept pile, bin, box or other suitable means of storage and shall be used for fertilizing soil in a non-commercial use only, primarily on-premises.

DISABLED OR INOPERATIVE VEHICLE. Any motor vehicle, including farming equipment, balers, tractors, lawn mowers – both riding and push operated – or any All Terrain Vehicle (ATV), or snowmobile in one place for ten days or more and subject to any one or more of the following conditions.

- a. It has no engine or transmission;
- b. It has two or more flat tires;
- c. One or more windows are missing or broken;
- d. It has become a breeding place for insects, snakes, rats, or other vermin.

GARBAGE. Waste matter that is discarded consisting of the residue of animal, fruit, or vegetable matter, resulting from the preparation, cooking, handling, or storage of food, exclusive of human or animal feces. Not included in this definition is compostable material, the nature of which is used for on-premises, residential use.

HAZARDOUS MATERIAL. Any substance or material in a quantity or form that may pose an unreasonable risk to health and safety of property, including any material designated by the United States Department of Transportation as belonging to a hazard class, and including any explosive, flammable substance, corrosive substance, or radioactive substance.

HISTORIC VEHICLE. Any vehicle that meets the definitions of historic vehicle under State law, including any vehicle that: (i) is 25 years or older and has not been substantially altered from the manufacturer's original design, or (ii) has a unique interest or historic value including makes of motor vehicles no longer manufactured and models of motor vehicles produced in limited or token quantities and no longer manufactured.

JUNK VEHICLE. Any automobile, truck, van or other motor vehicle, boat or trailer which:

- a. Is unregistered or unlicensed; or
- b. Displays tags assigned to another vehicle; or
- c. Is disabled or inoperable.

LITTER. All rubbish, waste matter, ashes, refuse, garbage, trash, debris, dead animals, or other discarded, hazardous or toxic materials of every kind or description.

REFUSE. Garbage, rubbish, junk (including, but not limited to any discarded items being stored in public view including, but not limited to old newspapers, broken furniture, etc.) industrial waste, dead animals, and all other solid waste materials, including salvable waste.

RUBBISH. All refuse other than garbage, whether combustible or noncombustible, including, but not limited to the following: rubbish from building construction or reconstruction, dead trees, uprooted tree stumps, slash (debris of trees from felling, wind, or fire), rubble, street refuse, abandoned automobiles (including, but not limited to abandoned cars, trucks, vans, or other motor vehicles, or abandoned boats or trailers), machinery, vehicular parts, tires, bottles, cans, waste paper, cardboard, sawdust piles, slash from sawmill operations, and all other waste material.

STRUCTURE. That which is built or constructed, including without limitation, building for any occupancy or use whatsoever, fences, signs, billboards, fire escapes, stairways, chute escapes, railings, water tanks, towers, open grade steps, sidewalk tents or anything erected and framed of component parts which is fastened, anchored or rests on a permanent foundation on the ground.

TIRES, UN-RUNNABLE. A composite circular object that is rubberized and customarily used in conjunction with the protection of automobile and vehicular wheels, but which has outlived its useful lifecycle and is no longer suitable to utilize for its customary use, but which may still be in a stable condition and therefore serve a secondary purpose – specifically for agricultural purposes – in order to keep tarpaulins held and secured in place.

TOXIC MATERIAL. Any substance that can be poisonous if inhaled, swallowed, or absorbed into the body through cuts, breaks in the skin, ingestion, or bodily contact.

WEEDS OR GRASS. All bushes, hedges, shrubs, grasses, poison oak, poison ivy or any other non-cultivated vegetation which attains a noxious or dangerous condition upon growth or accumulation so as to constitute a menace to public health or a fire hazard. A generalized growth of grasses poison oak, poison ivy, poison sumac or other non-cultivated vegetation exceeding a height of twelve (12) inches is presumptively a noxious and dangerous conditions. A generalized growth of bushes, hedges and shrubs extending into the vertical plane of any public way or abutting premises is presumptively a noxious and dangerous condition. In addition to these noxious weeds, the following are included in this definition as banned noxious weeds: Johnson grass, Shattercane, Split cane, Thistle (Bull, Canada, Musk, Plumeless) and invasive running bamboo. Not included within this definition are trees, flowers, garden vegetable, non-invasive bamboo, compost piles or any plant necessary for soil stabilization purposes (i.e. for the purposes of retarding or preventing soil or sediment erosion).

YARD. An open unoccupied space on the same lot with a building.

1.12 Dwelling Units

- a) It shall be unlawful for the owner of a dwelling unit or his designated agent or lessee to fail to maintain the structure and its exit ways in a safe and sanitary condition at all times. Every dwelling shall be kept sanitary, clean and free from any accumulation of rubbish, garbage or similar matter, and shall be kept free from vermin or rodent infestation. It shall be the duty of each occupant of the dwelling unit to keep in a clean condition that portion of the property which he occupies or over which he has exclusive control.
- b) The exterior of any dwelling unit and its appurtenances shall be maintained in a safe and sanitary condition in accordance with the relevant provisions of the Code of the Town of Burkittsville and with the provisions of Article II and Article III of the Code of Frederick County, Maryland entitled "Unsafe Buildings" and "Minimum Livability Code" respectively. Where conflicts arise in the interpretation of any single provision, the most stringent and severe shall be applied.

1.13 Yards

- a) It shall be unlawful for the owner of a yard or his designated agent or lessee to fail to maintain the yard free from all unsafe,

hazardous or unsanitary conditions. Every yard shall be kept sanitary, clean and free from any accumulation of rubbish, garbage, refuse, hazardous or toxic material, and human and animal waste (excluding bona fide fertilizers as regulated or defined by the Maryland Department of Agriculture).

b) Non-runnable tires that are regularly utilized for agricultural purposes only in the Agricultural Zoning District only may be permitted so long as they meet all of the following conditions:

- 1) Are primarily used to secure tarpaulins in place when used for agricultural storage; and
- 2) Are not permanently stockpiled; and
- 3) Are not used in a manner that is deleterious to public health or safety; and
- 4) Are maintained in such a condition that they do not degrade and are not permitted to smolder, melt, severely puncture or present favorable conditions for the breeding and/or housing of rodents, vermin, insects, snakes, or other disease-carrying animals.

c) Accumulation of woody debris and yard waste. Yard waste and woody debris is not to be stored permanently on any property in any zoning district or stored greater than 45 days for yard waste nor greater than 120 days for woody debris and shall be disposed of in a manner consistent with the recommended practices of the Mayor and Council or the Frederick County Department of Utilities and Solid Waste Management, or its agent or successor. Where and when the storage of any woody debris is permitted in Article XIV, is shall not be permitted to be stored at any time in the front yard of any property in any zoning district. By definition, firewood is not considered to be woody debris.

d) Nothing in this section shall prohibit the creation and maintenance of a residential compost pile or bin on a property in any zoning district when it is at least 30 feet from a neighboring primary dwelling structure. Compost piles may not be located in the front yard of a property in any zoning district and may not cover greater than 10% of the total property area nor be permitted to accumulate to such a height of greater than 48 inches.

1.14 Vacant Structures and Land

All vacant structures and premises thereof or vacant land shall be maintained by the owners free from an overgrowth of weeds and grass and in clean, safe and sanitary conditions as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

1.15 Overgrowth

- a) It shall be unlawful for any occupant or lessee of property, or the owner of property in the event that such property is unoccupied, to fail to cut down and remove any weeds or lawn grass exceeding a height of twelve (12) inches on any residential or non-residential lot within the Historic Village zoning district of the Town of Burkittsville. It shall be unlawful for any occupant or lessee of property, or the owner of property in the event that such property is unoccupied, to fail to cut down and remove any weeds or lawn grass exceeding a height of twelve (12) inches and extending in a vertical plane over any adjoining sidewalk or alleyway within the Town of Burkittsville.
- b) Within the Agricultural zoning district native grass species, as defined and approved by the Maryland Department of the Environment and/or the Maryland Department of Natural Resources, may be permitted to grow to a maximum of 36 inches when grown within 20 feet of a stream, creek, river, pond, lake, wetlands or on the fringe of crop plantings, but must maintain a setback of at least 100 hundred feet from any property line adjacent to the Historic Village zoning district or public street, alley or easement. In all other areas of a property within the Agricultural zoning district, the provisions of Article XIV Section 1.15(a) shall apply.

1.16 Littering

- a) It shall be unlawful for any person or persons to dump, deposit, throw, or leave or to cause or permit the dumping, depositing, placing, throwing, or leaving of litter on any public or private property in this Town, unless:
 - 1) Such property is designated by the Mayor and confirmed by the Town Council for the disposal of such litter, and such person is authorized by the Town Council to use such property;
 - 2) Such litter is placed into a litter receptacle or container installed on such property;
 - 3) Such person is the owner or tenant in lawful possession of such property or has first obtained written consent or is under the personal direction of the owner or tenant in lawful possession, and

the act is done in a manner consistent with the provisions of this Article.

b) Leaves deposited upon the sidewalk or street pending their removal as prescribed by the Town Council are exceptions to this Section.

1.17 Junk Vehicles

a) It shall be unlawful for anyone to have, possess, store or maintain a junk vehicle upon any property, whether public or private, within the corporate limits of the Town of Burkittsville, unless such vehicle or vehicles are housed or stored in a completely enclosed building, provided, that one such vehicle may be stored on a lot of record if it is completely covered by a waterproof, opaque cover securely fastened in place.

b) For the purposes of this section, idle farm equipment placed or used within the Agricultural Zoning District, shall not be considered a junk vehicle. Said equipment must be operable and shall not be stored or stalled within 50 feet from the boundary of a property within the Historic Village District.

1.18 Historic Vehicles

A junk vehicle which also meets the definition of an historic vehicle may be parked or maintained within the Town of Burkittsville, without being housed or stored in a completely enclosed building, if placed behind the front building line and protected by a tight-fitting, weatherproof covering. For purposes of this code, a carport does not constitute the required covering.

1.19 Vehicle Repairs

The repairing, servicing, replacement of parts, or the performance of maintenance work on a vehicle on a public street is prohibited unless completed within one (1) day after their commencement, or within ten (10) days is outside of an enclosed building on any private premises, and thereafter the vehicle upon which the repairs are made is legally operable upon any public street.

1.20 Sidewalks

a) Public Right-of-Way Maintained Privately. All sidewalks fronting or abutting a property adjacent to a public street or within a public right-of-way or easement shall be the sole responsibility of the property owner for its maintenance.

- b) Maintenance. All sidewalks in existence at the time of effective date of this ordinance, and chronicled and documented for file by the Environmental Management/Zoning Administrator within 15 days from the effective date, shall be compelled to maintain their sidewalks to minimum construction, engineering and maintenance standards as adopted by administrative policy by the Mayor and Council from time to time. At a minimum, sidewalks made of brick, cement, concrete or paved/macadamized asphalt shall have no interruption of pavement greater than 3 inches wide and 3 inches deep. Nor shall a heave in the sidewalk present a rise of more than 6 inches.
- c) Nothing in this article or section shall compel a property owner to erect or construct a sidewalk where one does not exist at the effective date of this ordinance unless such sidewalk improvements are made part of any future public works agreements entered into between the property owner and the Mayor and Council or as part of a site plan approval, final plat approval or as a condition of approval for a zoning certificate.
- d) It shall furthermore be unlawful for owners of any sidewalk abutting a public way to place or keep grass clippings, leaves, yard waste, rubbish, litter or weeds in excess of 12 inches at the edge of, within, alongside of the sidewalk or in any gutter or curb along a public street or alley.
- e) It shall be unlawful for the owner of any sidewalk abutting a public way to fail to remove any accumulations of snow and ice from same within twenty-four hours of the cessation of any precipitation.

1.21 Trees and Shrubbery

a) Planting.

Planting of trees, bushes, hedges, flora, fauna, shrubs or any woody vegetation shall be allowed without prejudice or permit, by a property owner or his lessee up to the surveyed property boundary and, where a sidewalk is present along any yard of the property, up to the portion of the sidewalk that does not abut the public street or alley. No plantings are to be permitted within a public right-of-way, easement or within the portion of yard that lay between the sidewalk and public street or alley without the express written permission by way of a formal waiver agreed to by the Mayor and Council or its designated agent. Furthermore, all tree or shrub plantings shall be subject to a six (6) feet setback when adjacent to a public or private street or alley.

b) Non Obstruction of access.

1) No planting of the aforementioned natural vegetation shall be permitted to grow to such point that it impedes access and obstacle-free travel along any sidewalks, public or private streets and alleys, or public easements. It shall further be unlawful for plantings to adversely impact or come into contact with any public or private utility lines.

2) Furthermore, no planting shall infringe on any adjacent property boundaries without the consent of the adjacent property owner.

c) Upkeep.

1) Downed or felled trees must be removed within 30 days of incidence from a property in all zoning districts.

2) No dead limbs, branches, tree trunks or firewood shall be permitted within 30 feet of a neighboring primary dwelling unit.

1.22 Enforcement

To enforce the provisions of Article XIV Section 1, the Mayor and Council designate the Environmental Management Administrator/Zoning Administrator to investigate violations or complaints, make findings of fact, write citations to those in violation, enact plans for remedy and further assess any infractions accordingly. Where investigating complaints or potential violations of unsafe buildings and minimum livability conditions as enumerated in Section 1.12 of this article, the Environmental Management Administrator/Zoning Administrator shall conduct the initial investigation and make findings of fact and, where it is determined that sufficient evidence exists, may request that the agent designated by the County in the relevant sections of the Code of Frederick County, Maryland assist in the enforcement of these provisions.

1.23 Municipal Infractions

Any violation of the provisions of this Article XIV, Section 1.0 shall be a municipal infraction as enumerated in Article XIV, Section 2.0.

BURKITTSVILLE MAYOR AND COUNCIL ORDINANCE NO. _____

RECOMMENDED BY THE PLANNING & ZONING COMMISSION
ON THIS _____ DAY OF _____, 2010

INTRODUCED THIS _____ DAY OF _____, 2010

PASSED THIS _____ DAY OF _____, 2011

WITH: ___ IN FAVOR, ___ OPPOSED, ___ ABSTAINING, ___ ABSENT.

APPROVED THIS _____ DAY OF _____, 2011

BY: _____
Deborah Burgoyne, Mayor

ATTEST: _____
Michelle Beller, Town Clerk

Approved this day for legal sufficiency: _____, 2011

By: _____